

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STEVEN MORGAN,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 24-CV-1190
	:	
OFFICER ALEJANDRO ORTIZ, et al.	:	
Defendants.	:	

ORDER

AND NOW, this 20th day of May, 2024, upon consideration of Plaintiff Steven Morgan's Motion to Proceed *In Forma Pauperis* (ECF No. 5), Prisoner Trust Fund Account Statement (ECF No. 6), and *pro se* Amended Complaint (ECF No. 4), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Steven Morgan, #222280, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of Chester County Prison or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Morgan's inmate account; or (b) the average monthly balance in Morgan's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Morgan's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Morgan's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Warden of Chester County Prison.

4. The Amended Complaint is **DEEMED** filed.

5. For the reasons stated in the Court's Memorandum, the following claims are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii): (1) all official capacity claims; and (2) all claims asserted against Defendant Corporal Jared Davis.

6. The Clerk of Court is **DIRECTED** to send Morgan a blank copy of the Court's standard form complaint for prisoners to use to file a civil rights complaint bearing the above civil action number.

7. Morgan is given thirty (30) days to file a second amended complaint in the event he can allege additional facts to state plausible claims for the claims that have been dismissed without prejudice. If Morgan files a second amended complaint, his second amended complaint must be a complete document that includes the factual basis for each of Morgan's claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. This means that if Morgan files an amended complaint, he must include allegations related to his excessive force claim against Officer Alejandro Ortiz, which has not been dismissed, if he seeks to proceed on that claim. Claims that are not included in the second amended complaint will not be considered part of this case because the second amended complaint becomes the pleading upon which the case will proceed.

Any second amended complaint shall identify all defendants in the caption of the second amended complaint in addition to identifying them in the body of the second amended complaint, shall state the basis for Morgan's claims against each defendant, and shall bear the

title “Second Amended Complaint” and the case number 24-1190. When drafting his second amended complaint, Morgan should be mindful of the Court’s reasons for dismissing his claims as explained in the Court’s Memorandum. Upon the filing of a second amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

8. If Morgan does not file a second amended complaint, the Court will direct service of his Amended Complaint on Defendant Officer Alejandro Ortiz only. Morgan may also notify the Court that he seeks to proceed only on this excessive force claim, rather than file a second amended complaint. If he files such a notice, Morgan is reminded to include the case number for this case, 24-1190.

9. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date 90 days after the Court issues summonses in this case if summonses are issued.

BY THE COURT:

/s/ Juan R. Sánchez

JUAN R. SÁNCHEZ, J.